

REMARKS

By this amendment, claims 1-3, 7-9, 16-17, and 55 have been amended. No new claims have been added and no claims have been deleted. Hence, claims 1-3, 7-9, 16-17 and 55 remain currently pending.

1. **Response to Claim Rejections under 35 U.S.C. § 103**

Claims 1-3, 7, 16, and 55 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kessler et al., U.S. Patent Number 5,324,077 (hereinafter “Kessler”) in view of Bitran, et al, Provider Incentives and Productive Efficiency in Government Health Services document, September , 1992. URL: <http://www.phrplus.org/Pubs/hfsmar1.pdf> (hereinafter “Bitran”). Claims 8 and 9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kessler and Bitran, and further in view of Spiro, U.S. Patent Number 5,819,228 (hereinafter “Spiro”). Claim 17 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Spiro and Bitran, and further in view of Seare, U.S. Patent Number 5,557,514 (hereinafter “Seare”).

Claim 1 has been amended to recite:

1. A computer-implemented method, executed in a first computer operated by an incentive administrator that is coupled to a second computer operated by a payer and a third computer operated by a healthcare provider, of providing a monetary incentive payable to the healthcare provider upon completion of a course of treatment for a patient with a condition during an episode of care, the method comprising the steps of:

- creating an initial baseline value related to treatment of the condition;
- receiving over the computer network from the payer a diagnosis of the patient performed by the healthcare provider and provided by the healthcare provider to the payer, along with an associated cost quantified by the initial baseline value;
- creating an episode of care based upon the diagnosis of the healthcare provider and a decided course of treatment for the condition;
- summing a plurality of claims processed during the episode of care of the patient for the condition to obtain a total treatment cost;
- adjusting the initial baseline value by factoring in cost offsets due to inflation and technological advances to establish a prospective cost for the decided course of treatment, and by factoring in one or more historically derived severity factors to derive an adjusted baseline value;

determining if the total treatment cost is less than the adjusted baseline value, thus resulting in a cost savings for the decided course of treatment;
causing a portion of the cost savings to be sent to the healthcare provider in the form of the monetary incentive for purposes of improving utilization of healthcare services in the decided course of treatment relative to utilization of healthcare services quantified by the initial baseline value; and
determining a portion of the cost savings to be retained by the incentive administrator.

Claim 1, as amended, thus claims a method in which a monetary incentive is calculated by an incentive administrator to be paid by a payer to a healthcare provider who performs a diagnosis and decides a course of treatment for a patient with a condition. Claim 1 further recites a method in which a monetary incentive is paid to the healthcare provider if the total treatment cost is less than an adjusted baseline value, where a portion of the monetary incentive is retained by the incentive administrator, and wherein the adjusted baseline value is derived by adjusting an initial baseline value by factoring in cost offsets due to inflation and technological advances to establish a prospective cost for the decided course of treatment, and by factoring in one or more historically derived severity factors.

Furthermore, amended claim 1 recites that the monetary incentive is sent to the healthcare provider for purposes of improving utilization of healthcare services in the decided course of treatment relative to utilization of healthcare services quantified by the initial baseline value.

As stated by the Examiner, Kessler does not explicitly disclose “determining if the total treatment cost is less than the baseline value, thus resulting in a cost savings.” (Office Action, 04/06/2005, p. 5). However, the Examiner cites Bitran as providing this element. The Bitran paper studies the causes and inefficiencies in government-run healthcare systems in third world countries, and discusses the withholding of a percentage of fees from a physician until year-end, and the payment of these fees to those physicians who meet certain performance goals. The system described in Bitran mentions cost-containment goals, but does not teach or suggest the use of targeted incentives to healthcare providers through payments that are individually calculated based on specific episodes of care, as claimed in the present application. Neither Kessler nor Bitran, either alone or in combination, teach or suggest the creation of an initial baseline value related to treatment of the condition, and the adjustment of this initial baseline value by factoring in cost offsets due to inflation and

technological advances to establish a prospective cost for the decided course of treatment, and by factoring in one or more historically derived severity factors in order to obtain a metric against which cost savings can be measured in order to determine the incentive value. Furthermore, Bitran does not teach or suggest that a portion of the cost savings is to be sent to the healthcare provider in the form of the monetary incentive for purposes of improving utilization of healthcare services in the decided course of treatment relative to utilization of healthcare services quantified by the initial baseline value. Bitran only describes splitting an amount of money among parties in a healthcare system. Bitran does not provide any teaching regarding utilization of healthcare services and the use of targeted incentives to alter utilization patterns, as claimed in amended claim 1. Therefore, it is respectfully submitted that claim 1, as amended is not rendered obvious under 35 U.S.C. § 103(a) by the cited combination.

It is respectfully submitted that in light of the amendments made to claim 1 and the remarks provided herein, the instant claim rejection under 35 U.S.C. § 103(a) has been overcome, thus placing claim 1 in condition for allowance. Claims 2-3, 7-9, and 16-17 depend from claim 1, and therefore, for the same reasons provided with respect to claim 1, it is respectfully submitted that these claims are allowable over the cited combination.

Claim 55 is an independent apparatus claim that has been amended to recite elements similar to those of amended claim 1. Therefore, for the same reasons provided with respect to claim 1, it is respectfully submitted that claim 55 is allowable over the cited combination.

Claims 8 and 9 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kessler, Bitran, and Spiro. The Examiner states that Spiro teaches a method including the step of, among others, associating another relative value unit related to the treatment of the additional condition, the another baseline value being adjusted to account for the condition. It is respectfully submitted that in light of the amendments made to claims 1, from which claims 8 and 9 depend, the rejection of these claims has been overcome, and thus claims 8 and 9 are in condition of allowance.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Spiro, Bitran, and Seare. The Examiner states that Seare teaches a method including the step of filtering to remove outlier episodes of care. It is respectfully submitted that in light of the


amendments made to claims 1, from which claim 17 depends, the rejection of this claim has been overcome, and thus claim 17 is in condition of allowance.

Applicants respectfully request that the above described amendments be made part of the official record in the present application, and respectfully submit that support for the claim amendments and new claims is present in the specification, claims, and drawings as originally filed, and that no new matter has been added.

Respectfully submitted,

COURTNEY STANIFORD & GREGORY LLP

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By: 
Geoffrey T. Staniford
Registration No. 43,151

10001 N. De Anza Blvd., Suite 300
Cupertino, CA 95014
(408) 342-1904 (telephone)